

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

CNH AMERICA LLC and BLUE LEAF  
I.P., INC.

Plaintiffs,

V.

KINZE MANUFACTURING, INC.

Defendant.

CIVIL ACTION NO.: 08-945 (GMS)

## VERDICT FORM

We, the jury, unanimously find as follows:

### QUESTION 1: INFRINGEMENT

#### Question No. 1(a): Infringement of the '428 Patent by Kinze Manufacturing, Inc. ("Kinze")

Do you find that Plaintiffs CNH America LLC and Blue Leaf I.P., Inc. (collectively "Case IH") have proven, by a preponderance of the evidence, that Kinze has infringed any of the asserted claims of U.S. Patent No. 5,842,428?

Check YES or NO for each claim:

<b>'428 Patent</b>	<b>YES (Kinze Infringes)</b>	<b>NO (Kinze Does Not Infringe)</b>
<b>Claim 17</b>		✓
<b>Claim 18</b>		✓
<b>Claim 146</b>		✓
<b>Claim 207</b>		✓

#### Question No. 1(b): Infringement of the '193 Patent by Kinze

Do you find that Case IH has proven, by a preponderance of the evidence, that Kinze has infringed any of the asserted claims of U.S. Patent No. 6,109,193?

Check YES or NO for each claim:

<b>'193 Patent</b>	<b>YES (Kinze Infringes)</b>	<b>NO (Kinze Does Not Infringe)</b>
<b>Claim 62</b>		✓
<b>Claim 129</b>		✓
<b>Claim 135</b>		✓
<b>Claim 190</b>		✓

**QUESTION 2: INDEFINITENESS****Question No. 2(a): Indefiniteness of the '428 Patent**

Do you find that Kinze has proven by clear and convincing evidence that any of the following claims of the '428 Patent are invalid because a person of ordinary skill in the art could not reasonably determine their scope, and therefore they are indefinite?

Check YES or NO for each claim:

<b>'428 Patent</b>	<b>YES (Claim Is Indefinite)</b>	<b>NO (Claim Is Not Indefinite)</b>
<b>Claim 17</b>		✓
<b>Claim 18</b>		✓
<b>Claim 146</b>		✓
<b>Claim 207</b>		✓

**Question No. 2(b): Indefiniteness of the '193 Patent**

Do you find that Kinze has proven by clear and convincing evidence that any of the following claims of the '193 Patent are invalid because a person of ordinary skill in the art could not reasonably determine their scope, and therefore they are indefinite?

Check YES or NO for each claim:

<b>'193 Patent</b>	<b>YES (Claim Is Indefinite)</b>	<b>NO (Claim Is Not Indefinite)</b>
<b>Claim 62</b>		✓
<b>Claim 129</b>		✓
<b>Claim 135</b>		✓
<b>Claim 190</b>		✓

**QUESTION 3: KRAUSE "TWO HOLE" SEED CUP**

**Question No. 3(a): Invention Date of Krause "Two Hole" Seed Cup**

Do you find that Kinze has proven by clear and convincing evidence that the Krause "Two-Hole" Seed Cup was invented (and not subsequently abandoned, suppressed, or concealed), publicly used, sold, or offered for sale, before August 20, 1996?

YES: ✓ NO: \_\_\_\_\_

**Question No. 3(b): Case IH's Invention Date**

If you answered "YES" to question no. 3(a), do you find that Case IH has proven by clear and convincing evidence that it invented the subject matter of claims 17, 18, 146 and 207 of the '428 Patent and claim 62 of the '193 Patent before the Krause "Two-Hole" Seed Cup was invented, publicly used, sold, or offered for sale?

YES: ✓ NO: \_\_\_\_\_

If you answered NO to Question 3(a) or YES to Question 3(b), then you are to give no consideration to the "two-hole" Krause seed cup in answering Question Nos. 4 and 5 for claims 17, 18, 146 and 207 of the '428 Patent and claim 62 for the '193 Patent. However, you may consider the "one-hole" Krause seed cup for these claims.

**QUESTION 4: ANTICIPATION****Question No. 4(a): Anticipation of the '428 Patent**

Do you find that Kinze has proven by clear and convincing evidence that any asserted claim of the '428 Patent is invalid because it is anticipated?

Check YES or NO for each claim:

<b>'428 Patent</b>	<b>YES (Claim Is Anticipated)</b>	<b>NO (Claim Is Not Anticipated)</b>
<b>Claim 17</b>	✓	
<b>Claim 18</b>	✓	
<b>Claim 146</b>	✓	
<b>Claim 207</b>	✓	

**Question No. 4(b): Anticipation of the '193 Patent**

Do you find that Kinze has proven by clear and convincing evidence that any asserted claim of the '193 Patent is invalid because it is anticipated?

Check YES or NO for each claim:

<b>'193 Patent</b>	<b>YES (Claim Is Anticipated)</b>	<b>NO (Claim Is Not Anticipated)</b>
<b>Claim 62</b>	✓	
<b>Claim 129</b>	✓	
<b>Claim 135</b>	✓	
<b>Claim 190</b>	✓	

**QUESTION 5: OBVIOUSNESS****Question No. 5(a): Obviousness of the '428 Patent**

Do you find that Kinze has proven by clear and convincing evidence that any of the following claims of the '428 Patent are invalid because the claim, as a whole, would have been obvious to a person of ordinary skill in the art at the time of the invention?

Check YES or NO for each claim:

<b>'428 Patent</b>	<b>YES (Claim Is Obvious)</b>	<b>NO (Claim Is Not Obvious)</b>
<b>Claim 17</b>	✓	
<b>Claim 18</b>		✓
<b>Claim 146</b>	✓	
<b>Claim 207</b>		✓

**Question No. 5(b): Obviousness of the '193 Patent**

Do you find that Kinze has proven by clear and convincing evidence that any of the following claims of the '193 Patent are invalid because the claim, as a whole, would have been obvious to a person of ordinary skill in the art at the time of the invention?

Check YES or NO for each claim:

<b>'193 Patent</b>	<b>YES (Claim Is Obvious)</b>	<b>NO (Claim Is Not Obvious)</b>
<b>Claim 62</b>	✓	
<b>Claim 129</b>	✓	
<b>Claim 135</b>	✓	
<b>Claim 190</b>	✓	

**QUESTION 6: WRITTEN DESCRIPTION AND ENABLEMENT****Question 6(a): Written Description of the '428 Patent**

Do you find that Kinze has proven by clear and convincing evidence that any of the following claims of the '428 Patent are invalid due to an inadequate written description?

Check YES or NO for each claim:

<b>'428 Patent</b>	<b>YES (Claim Lacks Written Description)</b>	<b>NO (Written Description Satisfied)</b>
<b>Claim 17</b>		✓
<b>Claim 18</b>		✓
<b>Claim 146</b>		✓
<b>Claim 207</b>		✓

**Question No. 6(b): Written Description**

Do you find that Kinze has proven by clear and convincing evidence that any of the following claims of the '193 Patent are invalid due to an inadequate written description?

Check YES or NO for each claim:

<b>'193 Patent</b>	<b>YES (Claim Lacks Written Description)</b>	<b>NO (Written Description Satisfied)</b>
<b>Claim 62</b>		✓
<b>Claim 129</b>		✓
<b>Claim 135</b>		✓
<b>Claim 190</b>		✓

**Question 6(c): Enablement of the '428 Patent**

Do you find that Kinze has proven by clear and convincing evidence that any of the following claims of the '428 Patent are invalid because they are not enabled?

Check YES or NO for each claim:

<b>'428 Patent</b>	<b>YES (Claim Is Not Enabled)</b>	<b>NO (Claim Is Enabled)</b>
<b>Claim 17</b>		✓
<b>Claim 18</b>		✓
<b>Claim 146</b>		✓
<b>Claim 207</b>		✓

**Question 6(d): Enablement of the '193 Patent**

Do you find that Kinze has proven by clear and convincing evidence that any of the following claims of the '193 Patent are invalid because they are not enabled?

Check YES or NO for each claim:

<b>'193 Patent</b>	<b>YES (Claim Is Not Enabled)</b>	<b>NO (Claim Is Enabled)</b>
<b>Claim 62</b>		✓
<b>Claim 129</b>		✓
<b>Claim 135</b>		✓
<b>Claim 190</b>		✓



**QUESTION NO. 7: INEQUITABLE CONDUCT**

Do you find that Kinze has proven by clear and convincing evidence that:

(i) An individual or individuals involved in preparing or prosecuting the '428 or '193 patents withheld information from or made misrepresentations to the Patent Office that was material to the subject matter being claimed?

\_\_\_\_\_ YES

☒ \_\_\_\_\_ NO

(ii) Such individuals acted with the intent to deceive the Patent Office ?

\_\_\_\_\_ YES

☒ \_\_\_\_\_ NO

(iii) Do you find, after balancing any materiality and intent, that Kinze has proven by clear and convincing evidence that the individual or individuals committed inequitable conduct and that the '428 or '193 patents should therefore be declared unenforceable?

\_\_\_\_\_ YES

☒ \_\_\_\_\_ NO

**ANSWER QUESTION NOS. 8 AND 9 ONLY IF YOU HAVE FOUND THAT KINZE HAS INFRINGED AT LEAST ONE CLAIM OF EITHER THE 5,842,428 PATENT OR THE 6,109,193 PATENT, AND YOU HAVE NOT FOUND SUCH CLAIM(S) TO BE INVALID OR UNENFORCEABLE. OTHERWISE, YOU ARE FINISHED, AND THE FOREPERSON SHOULD SIGN AND PRINT HIS OR HER NAME ON THE SIGNATURE BLOCK AT THE END.**

**QUESTION NO. 8: WILLFULNESS**

Has Case IH proven, by clear and convincing evidence, that Kinze's infringement of either of the '428 or '193 patents was willful?

Check YES or NO:

YES (Willful infringement): \_\_\_\_\_

NO (No willful infringement): \_\_\_\_\_

**PLEASE PROCEED TO QUESTION NO. 9**

**QUESTION 9: MONETARY DAMAGES**

Royalty Basis (check one):

Per Planter (for Case IH): \_\_\_\_\_

Per Meter (for Kinze): \_\_\_\_\_

Royalty Rate: \_\_\_\_\_ (% or \$)

Total Damages: \$ \_\_\_\_\_

SO SAY WE ALL.

REDACTED

\_\_\_\_\_  
Foreperson

Printed Name: \_\_\_\_\_

Dated: FEB 11, 2011